



## Senate

General Assembly

**File No. 709**

January Session, 2013

Substitute Senate Bill No. 846

*Senate, May 6, 2013*

The Committee on Judiciary reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

### ***AN ACT DECREASING RECIDIVISM AND PROMOTING RESPONSIBLE REINTEGRATION.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 54-124a of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective July 1, 2013*):

3 (a) There shall be a Board of Pardons and Paroles within the  
4 Department of Correction, for administrative purposes only. On [and  
5 after July 1, 2008, and prior to July 1, 2010, the board shall consist of  
6 eighteen members, and on] and after July 1, 2010, the board shall  
7 consist of twenty members, including a chairperson, five full-time  
8 members and fourteen part-time members. The Governor shall appoint  
9 all members of the board with the advice and consent of both houses  
10 of the General Assembly. [On and after July 1, 2008, twelve of the  
11 members shall serve exclusively on parole release panels, five of the  
12 members shall serve exclusively on pardons panels and the  
13 chairperson may serve on both parole release panels and pardons  
14 panels, except that on and after July 1, 2010, seven of the members

15 shall serve exclusively on pardons panels.] In the appointment of the  
16 members, the Governor shall specify the member being appointed as  
17 chairperson, [the full-time and part-time members being appointed to  
18 serve on parole release panels and the members being appointed to  
19 serve on pardons panels] the members being appointed to serve full-  
20 time and the members being appointed to serve part-time. In the  
21 appointment of the members, the Governor shall comply with the  
22 provisions of section 4-9b. [The Governor shall appoint a chairperson  
23 from among the membership.] The members of the board appointed  
24 on or after [February 1, 2008] July 1, 2013, shall be qualified by  
25 education, experience or training in the administration of community  
26 corrections, parole or pardons, criminal justice, criminology, the  
27 evaluation or supervision of offenders or the provision of [mental]  
28 public health services [to offenders] or legal services. All members of  
29 the board may serve on both parole release panels and pardons panels  
30 as assigned by the chairperson. Each appointment of a member of the  
31 board submitted by the Governor to the General Assembly shall be  
32 referred, without debate, to the [committee on] joint standing  
33 committee of the General Assembly having cognizance of matters  
34 relating to the judiciary which shall report thereon not later than thirty  
35 legislative days after the date of reference.

36 (b) [The term of each appointed member of the board serving on  
37 June 30, 2008, who had been assigned by the chairperson exclusively to  
38 parole hearings, shall expire on said date.] The term of each member of  
39 the board [serving on June 30, 2008, who had been appointed  
40 chairperson, had been assigned by the chairperson exclusively to  
41 pardons hearings or has been appointed by the Governor on or after  
42 February 1, 2008,] shall be coterminous with the term of the Governor  
43 or until a successor is [chosen] appointed and has qualified, whichever  
44 is later. Any vacancy in the membership of the board shall be filled for  
45 the unexpired portion of the term by the Governor.

46 (c) The chairperson and five of the members of the board [appointed  
47 by the Governor on or after February 1, 2008, to serve on parole release  
48 panels] shall devote full time to the performance of their duties under

49 this section and shall be compensated therefor in such amount as the  
50 Commissioner of Administrative Services determines, subject to the  
51 provisions of section 4-40. The other members of the board shall  
52 receive [one hundred ten] two hundred dollars for each day spent in  
53 the performance of their duties on and after July 1, 2013, and shall be  
54 reimbursed for necessary expenses incurred in the performance of  
55 such duties. The chairperson or, in the chairperson's absence or  
56 inability to act, a member designated by the chairperson to serve  
57 temporarily as chairperson, shall be present at all meetings of the  
58 board and participate in all decisions thereof.

59 (d) The chairperson shall be the executive and administrative head  
60 of said board and shall have the authority and responsibility for (1)  
61 overseeing all administrative affairs of the board, (2) assigning  
62 members to panels, (3) establishing procedural rules for members to  
63 follow when conducting hearings, reviewing recommendations made  
64 by employees of the board and making decisions, (4) adopting policies  
65 in all areas of pardons and paroles including, but not limited to,  
66 granting pardons, commutations of punishments or releases,  
67 conditioned or absolute, in the case of any person convicted of any  
68 offense against the state and commutations from the penalty of death,  
69 risk-based structured decision making and release criteria, (5)  
70 consulting with the Department of Correction on shared issues  
71 including, but not limited to, prison overcrowding, (6) consulting with  
72 the Judicial Department on shared issues of community supervision,  
73 and (7) signing and issuing subpoenas to compel the attendance and  
74 testimony of witnesses at parole proceedings. Any such subpoena shall  
75 be enforceable to the same extent as subpoenas issued pursuant to  
76 section 52-143.

77 (e) [Of the members appointed prior to February 1, 2008, the  
78 chairperson shall assign seven members exclusively to parole release  
79 hearings and shall assign five members exclusively to pardons  
80 hearings. Except for the chairperson, no member assigned to parole  
81 release hearings may be assigned subsequently to pardons hearings  
82 and no member assigned to pardons hearings may be assigned

83 subsequently to parole release hearings. Prior to July 1, 2008, each  
84 parole release panel shall be composed of two members from among  
85 the members assigned by the chairperson exclusively to parole release  
86 hearings or the members appointed by the Governor on or after  
87 February 1, 2008, to serve exclusively on parole release panels, and the  
88 chairperson or a member designated to serve temporarily as  
89 chairperson, for each correctional institution. On and after July 1, 2008,  
90 and prior to October 5, 2009, each parole release panel shall be  
91 composed of two members appointed by the Governor on or after  
92 February 1, 2008, to serve on parole release panels, at least one of  
93 whom is a full-time member, and the chairperson or a full-time  
94 member designated to serve temporarily as chairperson, for each  
95 correctional institution. On and after October 5, 2009, each] Each parole  
96 release panel shall be composed of two members [appointed by the  
97 Governor to serve on parole release panels] and the chairperson or a  
98 full-time member designated to serve temporarily as chairperson. [, for  
99 each correctional institution. Such parole release panels shall be the  
100 paroling authority for the institutions to which they are assigned and  
101 not less than two members shall be present at each parole hearing.]  
102 Each pardons panel shall be composed of three members, [from among  
103 the members assigned by the chairperson exclusively to pardons  
104 hearings or the members appointed by the Governor on or after  
105 February 1, 2008, to serve on pardons panels,] one of whom may be the  
106 chairperson, except that for hearings on commutations from the  
107 penalty of death, one member of the panel shall be the chairperson.

108 (f) The Board of Pardons and Paroles shall have independent  
109 decision-making authority to (1) grant or deny parole in accordance  
110 with sections 54-125, 54-125a, as amended by this act, and 54-125e,  
111 [and 54-125g,] (2) establish conditions of parole or special parole  
112 supervision in accordance with section 54-126, (3) rescind or revoke  
113 parole or special parole in accordance with sections 54-127 and 54-128,  
114 (4) grant commutations of punishment or releases, conditioned or  
115 absolute, in the case of any person convicted of any offense against the  
116 state and commutations from the penalty of death in accordance with  
117 section 54-130a, as amended by this act.

118 (g) The Department of Correction shall be responsible for the  
119 supervision of any person transferred to the jurisdiction of the Board  
120 of Pardons and Paroles during such person's period of parole or  
121 special parole.

122 (h) The chairperson, or the chairperson's designee, and two  
123 members of the board [from among the members assigned by the  
124 chairperson to serve exclusively on parole release panels or the  
125 members appointed by the Governor on or after February 1, 2008, to  
126 serve on parole release panels,] shall conduct all parole release  
127 hearings, and shall approve or deny all parole revocations and parole  
128 rescissions recommended by an employee of the board pursuant to  
129 section 54-127a, as amended by this act. No panel of the Board of  
130 Pardons and Paroles shall hold a hearing to determine the suitability  
131 for parole release of any person unless the chairperson of the board has  
132 made reasonable efforts to determine the existence of and obtain all  
133 information deemed pertinent to the panel's decision and has certified  
134 that all such pertinent information determined to exist has been  
135 obtained or is unavailable.

136 (i) The chairperson of the board shall appoint an executive director.  
137 The executive director shall oversee the administration of the agency  
138 and, at the discretion of the chairperson, shall: (1) Direct and supervise  
139 all administrative affairs of the board, (2) prepare the budget and  
140 annual operation plan, (3) assign staff to administrative reviews, (4)  
141 organize pardons and parole release hearing calendars, (5) implement  
142 a uniform case filing and processing system, and (6) create programs  
143 for staff and board member development, training and education.

144 (j) The chairperson, in consultation with the executive director, shall  
145 adopt regulations, in accordance with chapter 54, concerning:

146 (1) Parole revocation and rescission hearings that include  
147 implementing due process requirements;

148 (2) An administrative pardons process that allows an applicant  
149 convicted of a crime to be granted a pardon with respect to such crime

150 without a hearing, unless a victim of such crime requests such a  
151 hearing, if such applicant was:

152 (A) Convicted of a misdemeanor and (i) such conduct no longer  
153 constitutes a crime, (ii) such applicant was under twenty-one years of  
154 age at the time of conviction and has not been convicted of a crime  
155 during the five years preceding the date on which the pardon is  
156 granted, or (iii) such conviction occurred prior to the effective date of  
157 the establishment of a program under sections 17a-692 to 17a-701,  
158 inclusive, section 46b-38c, 53a-39a, 53a-39c, 54-56e, 54-56g, 54-56i or 54-  
159 56j for which the applicant would have been eligible had such program  
160 existed at the time of conviction, provided the chairperson determines  
161 the applicant would likely have been granted entry into such program;  
162 or

163 (B) Convicted of a violation of section 21a-277, 21a-278 or 21a-279  
164 and such applicant has not been convicted of a crime during the five  
165 years preceding the date on which the pardon is granted, provided  
166 such date is at least ten years after the date of such conviction or such  
167 applicant's release from incarceration, whichever is later; and

168 (3) Requiring board members assigned to pardons hearings to issue  
169 written statements containing the reasons for rejecting any application  
170 for a pardon.

171 (k) The Board of Pardons and Paroles shall hold a pardons hearing  
172 at least once every three months and shall hold such hearings in  
173 various geographical areas of the state. The board shall not hold a  
174 pardons hearing within or on the grounds of a correctional facility  
175 except when solely for the benefit of applicants who are incarcerated at  
176 the time of such hearing.

177 (l) The chairperson and executive director shall establish:

178 (1) In consultation with the Department of Correction, a parole  
179 orientation program for all parole-eligible inmates upon their transfer  
180 to the custody of the Commissioner of Correction that will provide

181 general information on the laws and policies regarding parole release,  
182 calculation of time-served standards, general conditions of release,  
183 supervision practices, revocation and rescission policies, and  
184 procedures for administrative review and panel hearings, and any  
185 other information that the board deems relevant for preparing inmates  
186 for parole;

187 (2) An incremental sanctions system for parole violations including,  
188 but not limited to, reincarceration based on the type, severity and  
189 frequency of the violation and specific periods of incarceration for  
190 certain types of violations; and

191 (3) A formal training program for members of the board and parole  
192 officers that shall include, but not be limited to, an overview of the  
193 criminal justice system, the parole system including factors to be  
194 considered in granting parole, victim rights and services, reentry  
195 strategies, risk assessment, case management and mental health issues.

196 (m) The board shall employ at least one psychologist with expertise  
197 in risk assessment and recidivism of criminal offenders who shall be  
198 under the supervision of the chairperson and assist the board in its  
199 parole release decisions.

200 (n) In the event of the temporary inability of any member other than  
201 the chairperson to perform his or her duties, the Governor, at the  
202 request of the board, may appoint a qualified person to serve as a  
203 temporary member during such period of inability.

204 (o) The chairperson of the Board of Pardons and Paroles shall: (1)  
205 Adopt an annual budget and plan of operation, (2) adopt such rules as  
206 deemed necessary for the internal affairs of the board, and (3) submit  
207 an annual report to the Governor and General Assembly.

208 Sec. 2. Subsections (d) and (e) of section 54-125a of the general  
209 statutes, as amended by section 59 of public act 13-3, are repealed and  
210 the following is substituted in lieu thereof (*Effective July 1, 2013*):

211 (d) The Board of Pardons and Paroles [shall] may hold a hearing to

212 determine the suitability for parole release of any person whose  
213 eligibility for parole release is not subject to the provisions of  
214 subsection (b) of this section upon completion by such person of  
215 seventy-five per cent of such person's definite or aggregate sentence  
216 less any risk reduction credit earned under the provisions of section  
217 18-98e. An employee of the board or, if deemed necessary by the  
218 chairperson, a panel of the board shall [reassess] assess the suitability  
219 for parole release of such person based on the following standards: (1)  
220 Whether there is reasonable probability that such person will live and  
221 remain at liberty without violating the law, and (2) whether the  
222 benefits to such person and society that would result from such  
223 person's release to community supervision substantially outweigh the  
224 benefits to such person and society that would result from such  
225 person's continued incarceration. [After hearing] If a hearing is held,  
226 and if the board determines that continued confinement is necessary,  
227 [it] the board shall articulate for the record the specific reasons why  
228 such person and the public would not benefit from such person  
229 serving a period of parole supervision while transitioning from  
230 incarceration to the community. If a hearing is not held, the board shall  
231 document the specific reasons for not holding a hearing and provide  
232 such reasons to such person. The decision of the board under this  
233 subsection shall not be subject to appeal.

234 (e) The Board of Pardons and Paroles [shall] may hold a hearing to  
235 determine the suitability for parole release of any person whose  
236 eligibility for parole release is subject to the provisions of subdivision  
237 (2) of subsection (b) of this section upon completion by such person of  
238 eighty-five per cent of such person's definite or aggregate sentence. An  
239 employee of the board or, if deemed necessary by the chairperson, a  
240 panel of the board shall assess the suitability for parole release of such  
241 person based on the following standards: (1) Whether there is  
242 reasonable probability that such person will live and remain at liberty  
243 without violating the law, and (2) whether the benefits to such person  
244 and society that would result from such person's release to community  
245 supervision substantially outweigh the benefits to such person and  
246 society that would result from such person's continued incarceration.



247 [After hearing.] If a hearing is held, and if the board determines that  
248 continued confinement is necessary, [it] the board shall articulate for  
249 the record the specific reasons why such person and the public would  
250 not benefit from such person serving a period of parole supervision  
251 while transitioning from incarceration to the community. If a hearing is  
252 not held, the board shall document the specific reasons for not holding  
253 a hearing and provide such reasons to such person. The decision of the  
254 board under this subsection shall not be subject to appeal.

255 Sec. 3. Section 54-127a of the general statutes is repealed and the  
256 following is substituted in lieu thereof (*Effective July 1, 2013*):

257 All parole revocation and rescission hearings shall be conducted by  
258 an employee of the Board of Pardons and Paroles. The parole of a  
259 person who has been allowed to go on parole in accordance with  
260 subsection (a) of section 54-125a or section 54-125g of the general  
261 statutes, revision of 1958, revised to January 1, 2013, or who has been  
262 sentenced to a period of special parole in accordance with subdivision  
263 (9) of subsection (b) of section 53a-28, shall be revoked or rescinded if,  
264 after such hearing, the employee recommends such revocation or  
265 rescission and such recommendation is approved by at least two  
266 members of a panel of the board.

267 Sec. 4. Section 54-130a of the general statutes is amended by adding  
268 subsection (g) as follows (*Effective July 1, 2013*):

269 (NEW) (g) Any application, report or other record submitted to the  
270 board for consideration with respect to the granting of a pardon shall  
271 be confidential and not disclosed except upon (1) order of a court  
272 pursuant to section 54-142a, (2) the request of the individual who is the  
273 subject of such record, or (3) specific authorization of the board.

274 Sec. 5. Sections 54-125d and 54-125g of the general statutes are  
275 repealed. (*Effective July 1, 2013*)

This act shall take effect as follows and shall amend the following sections:
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Section 1	<i>July 1, 2013</i>	54-124a
Sec. 2	<i>July 1, 2013</i>	54-125a(d) and (e)
Sec. 3	<i>July 1, 2013</i>	54-127a
Sec. 4	<i>July 1, 2013</i>	54-130a
Sec. 5	<i>July 1, 2013</i>	Repealer section

**JUD**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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## **OFA Fiscal Note**

### **State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 14 \$</b>	<b>FY 15 \$</b>
Correction, Dept.	GF - Cost	Up to 100,000	Up to 100,000

**Municipal Impact:** None

### **Explanation**

The bill makes various changes to the structure and operations of the Board of Pardons and Parole, and is anticipated to cost the Department of Correction up to \$100,000 annually by increasing the per diem rate at which part time board members are paid. Currently, the 14 part time board members are paid \$110, under the bill the rate would increase to \$200. On average, the agency pays the part time staff 1,080 days annually.

In addition, the bill changes release hearings from mandatory to discretionary in certain circumstances. This is not anticipated to result in a significant reduction in hearings, but will shift when the hearings occur based on the availability of information to the board.

### **The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

Sources: Board of Pardons and Parole Average Per Diem Paid

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**OLR Bill Analysis****sSB 846*****AN ACT DECREASING RECIDIVISM AND PROMOTING RESPONSIBLE REINTEGRATION.*****SUMMARY:**

This bill makes a number of changes regarding parole and the composition and operations of the Board of Pardons and Paroles. Among other things, it:

1. eliminates a requirement that the governor appoint board members to serve on either parole or pardons panels and allows members to serve on both types of panels;
2. increases the pay of the 14 part-time board members from \$110 to \$200 for each day of work beginning July 1, 2013 (as under current law, they also receive necessary expenses);
3. changes the qualifications for members and the composition and designation of parole panels;
4. makes discretionary, rather than mandatory, parole release hearings for offenders who reach certain points in their prison sentences but requires the board to document specific reasons for not holding a hearing;
5. generally makes confidential pardon-related applications, reports, and records submitted to the board;
6. eliminates a parole release mechanism for offenders near the end of their sentences who agree to certain conditions;
7. eliminates a requirement that the board enter an agreement with

the U.S. government to deport parolees who are aliens under a deportation order and accompanying procedures for transferring these offenders; and

8. makes numerous technical and conforming changes.

EFFECTIVE DATE: July 1, 2013

## **§ 1 — BOARD MEMBERS**

Under current law, the Board of Pardons and Paroles consists of 20 members appointed by the governor. Twelve are appointed to serve exclusively on parole panels (five of whom serve full-time), seven are appointed to serve exclusively on pardon panels, and a chairperson is appointed to serve full-time and can serve on both types of panels. The bill allows members to serve on both parole and pardon panels, as assigned by the chairperson, and eliminates the requirement that the governor specify appointments to either parole or pardon panels.

By law, members' terms are coterminous with the governor's term. The bill specifies that members can serve until a successor is appointed and qualified, rather than "chosen."

### ***Qualifications***

Currently, board members must be qualified by education, experience, or training in the administration of community corrections, parole, pardons, criminal justice, criminology, evaluation or supervision of offenders, or providing mental health services to offenders. The bill eliminates qualification through providing mental health services to offenders. It adds qualifications for membership through providing (1) public health services or (2) legal services.

### ***Panels***

By law, parole panels consist of three members. Currently, the chairperson or a full-time member designated to serve temporarily as chairperson for each correctional institution serves as one member of a panel. The bill eliminates the requirement that the member serving temporarily as chairperson be designated for each prison and

eliminates a requirement that the panels be the paroling authority for the institutions they are assigned to, allowing greater flexibility in assigning panels and members for hearings.

The bill also eliminates a requirement that at least two members be present at parole hearings.

## **§ 2 — PAROLE RELEASE HEARINGS**

Current law requires the board to hold a parole hearing for:

1. non-violent offenders eligible for parole after serving 50% of their sentences when they have served 75% of their sentences, minus any risk reduction credits and
2. violent offenders eligible for parole after serving 85% of their sentences when they have served 85% of their sentences.

The bill makes this hearing discretionary but requires the board to document and provide the offender with the specific reasons why it chooses not to hold a hearing.

By law, the board must consider the offender's suitability for release based on whether (1) there is a reasonable probability he or she will not violate the law and (2) the benefits to the person and society from release to community supervision substantially outweigh the benefits of continued incarceration. By law, the board must document why it denies parole after one of these hearings.

## **§ 4 — CONFIDENTIALITY OF PARDON-RELATED DOCUMENTS**

The bill makes confidential and prohibits public disclosure of applications, reports, and records submitted to the board related to a pardon unless their disclosure is (1) authorized by the board, (2) requested by the subject of the record, or (3) required by court order regarding erased records.

By law, police, court, and prosecutorial records related to a (1) charge that is dismissed or nolle (the prosecutor declines to prosecute), or for which a person is found not guilty or (2) conviction

for which a person received a pardon, are erased and can be only disclosed to certain people under a court order.

The law also makes confidential a staff investigate report related to a provisional pardon application, except when disclosure is specifically authorized by statute or the board.

### **§ 5 — PAROLE RELEASE NEAR END OF SENTENCE**

The bill eliminates the board's authority to grant parole to someone within six months of the end of his or her sentence, regardless of other parole rules, when the person agrees to (1) one year of supervision by Department of Correction (DOC) personnel and (2) return to prison for the unexpired portion of his or her term if the person violates parole. For someone convicted of a crime ineligible for parole or a violent crime eligible for parole after serving 85% of his or her sentence, this option is only currently available after the person serves 95% of his or her sentence.

### **§§ 3 & 5 — PAROLE AND DEPORTATION**

The bill eliminates a requirement that the board enter an agreement with the U.S. government to deport parolees who are aliens and under a deportation order. The bill eliminates requirements related to such an agreement, including that:

1. DOC determine which inmates to refer to the board at intake;
2. violent offenders normally eligible for parole after serving 85% of their sentences are eligible for deportation parole after serving 50% of their sentences;
3. a sentencing court can refer an offender who is an alien, other than one convicted of capital felony or a class A felony, directly to the board for deportation;
4. a deported offender's sentence is put on hold for 10 years and if he or she returns to the U.S. during that time he or she is considered to be violating parole, the sentence is reinstated, and

he or she is ineligible for parole;

5. an offender approved for deportation parole is not eligible for a bond; and
6. an approved offender is transferred to the U.S. government for deportation according to the agreement and the person waives all rights to appeal the conviction, extradition, or deportation.

By law, the DOC commissioner can release to the U. S. Immigration and Customs Enforcement any alien convicted of a crime who (1) is sentenced to a prison term of five years or less and (2) has served at least 50% of the sentence.

### **COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea    26        Nay   13        (04/19/2013)